

2009 DRAFTING REQUEST

Bill

Received: **01/17/2009**

Received By: **btradewe**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Miner**

This file may be shown to any legislator: **NO**

Drafter: **btradewe**

May Contact:

Addl. Drafters:

Subject: **Environment - solid haz. waste**

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Miner, BB0479 -

Topic:

Modify hazardous waste fees

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State
/1	btradewe 01/20/2009	wjackson 01/20/2009	mduchek 01/20/2009	_____	lparisi 01/20/2009		State
/2	btradewe 01/24/2009	bkraft 01/24/2009	phenry 01/24/2009	_____	chanaman 01/25/2009		State
/3	btradewe 01/26/2009	wjackson 01/26/2009	phenry 01/27/2009	_____	lparisi 01/27/2009		

FE Sent For:

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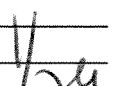
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1/2 bjk'24



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/?	btradewe						

FE Sent For:

<END>

Tradewell, Becky

From: Miner, Andrew - DOA [Andrew.Miner@Wisconsin.gov]
Sent: Friday, January 16, 2009 5:38 PM
To: Tradewell, Becky
Cc: Steinmetz, Jana D - DOA
Subject: new request: hazardous waste fees
Attachments: 2009-11 Budget HW Generator Fee Issue Paper_061008.doc; Proposed Generator Fee v2.xls

Becky,

Barring any actions that I am not aware of, this should be the last new request you will see from us. I apologize for the tardiness, but the decision was just made and could've gone in very different directions. I'll be sending this over formally, but wanted to get it to you as quickly as possible.

The proposal is explained in the attached Excel spreadsheet.

1. It would discontinue the base fee portion under 289.67(2)(b)1. The per ton fee would remain in place.
2. It would create authority for an annual handler fee for large and small quantity generators of hazardous waste. Fees would not be set in statute: DNR would do so by rule. Fee revenue would be deposited into 20.370(2)(mq).

Do not worry about including the "inflationary adjustment" the sheet refers to. The required changes are discussed in the second and third bullet points of the attached issue paper. However, as opposed to DNR's request, we just want the fee to be on large and small quantity generators – not all three levels (large, small and very small).

Please let me know if you have questions. Thanks - Andrew

*Andrew Miner
Agriculture, Environment and Justice
Wisconsin State Budget Office
(608) 266-1103*

2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Hazardous Waste Annual Handler Fee
- Tracking Code: BB0479
- SBO team: Agriculture, Environment and Justice
- SBO analyst: Andrew Miner AM 1/16/09
 - Phone: 266-1103
 - Email: andrew.miner@wisconsin.gov
- Agency acronym: DNR
- Agency number: 370
- Priority (Low, Medium, High): High

Intent: The proposal is explained in the attached Excel spreadsheet.

1. It would discontinue the hazardous waste base fee portion under 289.67(2)(b)1. The per ton fee would remain in place.
2. It would create authority for an annual handler fee for large and small quantity generators of hazardous waste. Fees would not be set in statute: DNR would do so by rule. Fee revenue would be deposited into 20.370(2)(mq).

The required changes are discussed in the second and third bullet points of the attached issue paper. However, as opposed to DNR's request, we just want the fee to be on large and small quantity generators – not all three levels (large, small and very small). There should be no annual inflationary adjustment.

Proposal for a New Fee for Existing Payers

- Discontinue the base fee portion of the Environmental Repair Fee for Generators of Hazardous Waste (s. 289.67(2)(b)1, Stats.). Large Quantity Generators and Small Quantity Generators who generate waste that is not exempt from the HW Generator Fee currently pay the base fee. The base fee is \$210 and over the last 5 years has brought in an average of \$140,000 annually. The per ton fee assessed under the Environmental Repair Fee for Generators of Hazardous Waste would remain in place.

- Transfer 5 FTE from the Solid and Hazardous Waste Program Revenue Account (221) to the Env. Fund (275)

Size of Generator	# of generators (Based on December 2007 data)	% currently paying fee	Proposed Annual Fee	Total Annual Revenue 2nd Year of Fees (including inflationary adjustment*)	Total Annual Revenue 3rd Year of Fees (including inflationary adjustment)	Total Annual Revenue 4th Year of Fees (including inflationary adjustment)	Total Annual Revenue 5th Year of Fees (including inflationary adjustment)
Large Quantity Generator	446	70%	\$950	\$969	\$988	\$1,008	\$1,028
Small Quantity Generator	1,237	30%	\$950	\$969	\$988	\$1,008	\$1,028
Total Proposed New				\$662,118	\$675,360	\$688,867	\$702,645
Reduction for discontinuation				\$140,000	\$140,000	\$140,000	\$140,000
Net Additional Revenue into				\$522,118	\$535,360	\$548,867	\$562,645
Funding needed to support 5 **				\$510,000.00	\$520,200.00	\$530,604.00	\$541,216.08

* - Assumes 2% annual inflationary adjustment

** - Assumes 2% annual inflationary adjustment

Department of Natural Resources
2009 – 11 Biennial Budget Issue Paper

PROGRAM: Air & Waste Division

SUBPROGRAM: Waste & Materials Management

DECISION ITEM: 5261 Fees for Hazardous Waste Generators

Issue

The Department administers Wisconsin's hazardous waste regulatory program under ch. 291, Stats. The Department is authorized to set fees by rule under s. 291.05(7)(a), Stats., to recover its costs for a variety of specifically enumerated activities. For unknown reasons, the list of enumerated activities does not include tasks relating to hazardous waste generators.

The current list of fee-generating activities authorized by statute for hazardous waste primarily impacts owners or operators of licensed hazardous waste treatment, storage or disposal (TSD) facilities, but not hazardous waste generators, who are exempt from licensing and are regulated by rule instead. Wisconsin now has only 17 licensed hazardous waste treatment and storage facilities. There are 7 closed hazardous waste land disposal facilities; because they are closed, they generate little or no plan review or license revenue. However, Wisconsin has a little over 11,000 hazardous waste generators, and their number is growing. Inspections and compliance assistance activities at generator sites are an increasing component of the Department's workload and corresponding cost of administering the hazardous waste program. Under the current wording of the fee statute, these costs must be borne disproportionately by the TSD facilities in the regulated community.

The fees currently generated from these activities are deposited into the Solid and Hazardous Waste Program Revenue (PR) Account. Within the last 3 years all fees going into this account have been increased through rule revisions, but the account is still facing long-term stability problems, primarily based on the lack of hazardous waste revenue. In order to bring in adequate hazardous waste revenue to cover expenses of the current available universe of facilities, the fees need to be raised to a level that would not be tolerable to the regulated community. At the time of the last hazardous waste fee increases, TSD facilities wanted the Department to explore ways to include the generators in the universe of facilities that bring revenue into the PR Account.

Request

To create a more stable funding source and keep up with the demands of the hazardous waste program, the Department is requesting five main items in this budget paper:

- To create a fee schedule for three levels of hazardous waste generation: Large Quantity Generator (LQGs), Small Quantity Generators (SQGs) and Very Small Quantity Generators (VSQGs). A table of these proposed fees can be found in Table 1. These fees would be deposited into the Environmental Management (EM) Account of the Environmental Fund.

- To add an annual inflationary adjustment to the proposed generator fee. Using an inflation factor derived from the most recent implicit price deflator for gross domestic product published by the U.S. Department of Commerce in its Survey of Current Business, the Department is proposing to create a dynamic increase in the fee structure. The inflation factor is derived by dividing the latest published annual deflator by the deflator for the previous year; over the last 10 years the inflation factor has averaged around 2%.
- To add language to either Chapter 289, Subchapter VI (Solid Waste) or Chapter 291 (Hazardous Waste) of the statutes to charge a new annual handler fee to all categories of hazardous waste generators to recoup the compliance assurance costs related to these operations. (Current hazardous waste fee authority is found in s. 291.05(7), Stats.). This would also include statutory language changes to charge the fee to generators. Proposed language for that change would be:
 - **291.05 (7)** (a) The department shall promulgate by rule a graduated schedule of reasonable ~~license, plan approval and review~~ fees to be charged for hazardous waste activities under ss. ~~291.23, 291.25, 291.29, 291.31 and 291.87~~ this chapter.
 - (b) Hazardous waste activities under ss. ~~291.23, 291.25, 291.29, 291.31 and 291.87~~ this chapter consist of reviewing feasibility reports, plans of operation, closure plans and license applications, issuing determinations of feasibility, plan of operation approvals, operating licenses, interim licenses and variances, inspecting construction projects, approving closure plans and taking other actions in administering this ss. ~~291.23, 291.25, 291.29, 291.31 and 291.87~~ chapter.
- To discontinue the base fee portion of the Environmental Repair Fee for Generators of Hazardous Waste (s. 289.67(2)(b)1., Stats.). The repair fee currently has two parts: a \$210 base fee and a per ton fee; and is deposited into the Environmental Fund. Based on 2006 data about 70% of LQGs were subject to the fee and about 31% of SQGs generated waste that was subject to the fee. Over the last 5 years the base fee, has brought in an average of \$140,000 annually. The per ton fee assessed under the repair fee would remain in place; the per ton fee is about approximately \$400,000 annually.
- To transfer 5.0 FTE from the PR Account to the EM Account; and use the new revenue from the generator fee to fund the 5.0 FTE. In addition, the fee revenue not utilized to fund the FTE will help the funding stability problem in the EM Account.

Background

The Resource Conservation and Recovery Act was created by Congress to regulate the management of hazardous waste nationally. The U.S. Environmental Protection Agency (EPA) was tasked to administer the program. States may seek authorization from EPA to oversee the program locally. In 1981, DNR created a hazardous waste subprogram to assure that the generation, transportation, storage, treatment and disposal of hazardous waste does

not adversely impact Wisconsin's air, land and water resources. In January 1986, Wisconsin was authorized by EPA to administer the federal hazardous waste program.

When the hazardous waste subprogram was first authorized, approximately 44 staff worked in the subprogram. Thirty-three were funded from a grant from EPA, while the other 11 were state-funded positions required for match of the federal grant, as a condition of receiving the money. Federal grant funding remained stagnant for many years, and has been decreasing the last few years. (See Table 2 for detail on hazardous waste revenue and expenditures for last 5 years.) Federal grant funding is used to pay salaries of staff performing hazardous waste related work such as inspections, enforcement, outreach, plan review, data management, licensing, complaint response, policy development, and rulemaking. Because of the federal funding shortfall, the Department is currently funding around 21 federal positions related to hazardous waste work; these positions include staff in the Waste and Materials Management Program (Waste), Remediation and Redevelopment, and Law Enforcement. However, the work involved in administering the hazardous waste program has been steadily increasing. EPA continues to promulgate new hazardous waste regulations to be implemented at the state level. New regulations involve rulemaking, policy development, development of outreach and educational materials, staff training, outreach to the regulated community, and additional items to cover through inspection and enforcement activities, and plan review and licensing activities. Funding from general purpose revenue, the PR Account, and the EM Account is used for federal grant match. The Department believes that in the near future without a new source of revenue to support state-funded hazardous waste work in Wisconsin, the federal program will be returned to EPA for implementation by its Region 5 Chicago office.

As previously mentioned, the PR Account is facing funding stability issues. Current projections for the PR Account show a deficit balance in the account at the end of FY11. The revenue coming into this account comes from: plan review and license fees for solid and hazardous waste facilities; a license fee surcharge tipping fee for solid waste landfills; a manifest fee for hazardous waste manifests; solid waste operator certification fees; infectious waste annual report fees; and few other miscellaneous type fees. In general, the solid waste revenue coming into this account is adequate to cover the solid waste management expenses from the account. However, for several years, the hazardous waste revenue has not been adequate to cover hazardous waste expenses from the account. The hazardous waste portion of the revenue is the main reason a deficit is projected in the account. In addition, there is currently a funding stability issue in the EM Account. As mentioned, Department staff working on hazardous waste issues are funded from these two accounts and both accounts are used as match for the federal hazardous waste grant.

The Waste Program currently work plans for about 25.0 FTE (or about 30% of total program complement) worth of effort for hazardous waste work, based on available funding. However, work planning at this level only allows the Waste Program to do the bare minimum needed to meet the hazardous waste grant commitments, and it is a struggle to meet those commitments. Many compliance and outreach/education activities have been stopped or reduced because of the lack of staff and resources. The program has found ways to

streamline work and to work more efficiently, but these efficiencies cannot make up for the extreme reduction in funding seen in the hazardous waste program over the years.

Analysis of Need

The universe of facilities that manage hazardous wastes is changing. Because of economic and environmental factors, industry is looking for ways to reduce the amount of hazardous waste they produce, and find more ways to reuse or recycle the hazardous wastes they do produce. This results in fewer hazardous waste treatment, storage and disposal facilities operating in Wisconsin. Instead of operating as a storage or treatment facility, the lower amounts of hazardous wastes produced or managed at a facility allow them to operate as a hazardous waste generator (generators are not required to be licensed), rather than as a licensed TSD. With fewer licensed hazardous waste facilities operating in Wisconsin, there is less hazardous waste licensing and plan review revenue obtained from these facilities. In addition, all hazardous wastes which facilities are able to recycle or reuse are exempt from the previously mentioned existing repair fee. (The revenue from this fee goes into the EM Account). This trend of less hazardous wastes being produced and more hazardous wastes being recycled and reused is obviously a good thing from an environmental perspective, but does impact the amount of revenue received under our current fee structure. Staff oversight is still needed for hazardous waste generators and recyclers as an important part of preventing adverse human health and environmental impacts.

The trend towards less hazardous waste produced also changes the universe of generators and has impacts on workload and revenues. Recent trends show that the number of LQGS and SQGS has decreased, but the number of VSQGs has increased. All LQGs and SQGs are required to submit an annual hazardous waste report, and pay the existing repair fee on all tons reported, except for wastes which are recycled or reused. However, VSQGs are exempt from the reporting requirement, and subsequently exempt from paying the repair fee. So, if the trend towards fewer LQGs and SQGs, and more VSQGs continues, the amount of revenue received under the current fee structure will also decrease. Additionally, VSQGs make up almost 85% of the total generator universe in Wisconsin. Often, these are small "Mom & Pop" type operations, common examples of VSQGs are auto repair/auto body shops, printers, and dry cleaners, that are not familiar with the hazardous waste regulations that may apply to their businesses. This results in a greater workload for the hazardous waste field staff to work with these businesses to educate them, and also deal with compliance and enforcement issues. As noted above, generators are exempt from licensing requirements, and the Department currently does not have statutory authority to charge fees for activities relating to implementing the state and federal regulations for generators.

In addition to staff time, carrying out all of these activities requires adequate resources for travel, training, supplies, computers, data management work, etc. These costs, like everything else, have continued to rise over the years due to inflation. In 1994, the Waste Program was able to provide \$6,000 per person in supplies and services for our field staff and \$4,000 per person to our central office staff. Currently, the Waste Program provides an average of around \$2,200 per person for supplies and services. The decrease in supplies and services has impacted the hazardous waste work in many ways. Some examples are:

- Less travel money results in reductions in inspections and complaint follow-ups, which can lead to increased non-compliance by the regulated community
- Very limited training money prevents staff from attending national and other EPA sponsored courses , which impedes their ability to keep abreast of current technology and regulatory requirements and diminishes their ability to effectively oversee regulated facilities
- Limited funding to devote to improvements to information technology, such as developing and improving information and services available through web pages (i.e. on-line reporting), or being able to purchase new computer equipment and software to keep up with Department standards, effects staff's ability to work efficiently and provide good customer service.
- Limited funding for outreach and compliance assistance – In the past, the program was able to put on workshops and conferences and develop new publications to educate our customers on regulations. Currently the program produces very few publications – more often the program develops Frequently Asked Questions (FAQs), which are posted on a webpage to address some of the more urgent outreach/education needs. While providing some assistance, FAQs are not as effective for dealing with complex hazardous waste regulations and as a result our customers are less informed about new, complex regulations that affect them.

If no additional revenue for hazardous waste activities can be generated, the Department will need to greatly reduce the amount of hazardous waste work carried out in Wisconsin. This will result in an inability to earn the federal hazardous waste grant and meet grant commitments. This means federal grant money will be reduced even more. The end result will be further staff reductions and much less oversight of hazardous waste management activities in Wisconsin. This leads to much higher potential for impacts to human health and the environment from improperly managed hazardous waste activities. Without adequate staff to run the hazardous waste program, the Department will need to return the program to EPA for implementation.

TABLE 1 PROPOSED FEE SCHEDULE

Size of Generator	# of generators (Based on December 2007 data)	Proposed Annual Fee	Total Annual Revenue 1st Year Fees are in Place	Total Annual Revenue 2nd Year of Fees (including inflationary adjustment*)	Total Annual Revenue 3rd Year of Fees (including inflationary adjustment)	Total Annual Revenue 4th Year of Fees (including inflationary adjustment)	Total Annual Revenue 5th Year of Fees (including inflationary adjustment)
Large Quantity Generator	446	\$250	\$111,500	\$113,730	\$116,005	\$118,325	\$120,691
Small Quantity Generator	1,237	\$150	\$185,550	\$189,261	\$193,046	\$196,907	\$200,845
Very Small Quantity Generator	9,447	\$100	\$944,700	\$963,594	\$982,866	\$1,002,523	\$1,022,574
Total Proposed New Revenue			\$1,241,750	\$1,266,585	\$1,291,917	\$1,317,755	\$1,344,110
Reduction for discontinuation of HW Generator Base Fee			\$140,000	\$140,000	\$140,000	\$140,000	\$140,000
Net Additional Revenue into Env. Fund			\$1,101,750	\$1,126,585	\$1,151,917	\$1,177,755	\$1,204,110
Funding needed to support 5 FTE transferred from Program Revenue Account **			\$500,000	\$510,000	\$520,200	\$530,604	\$541,216
Additional Revenue to Env. Fund to help stabilize the fund over and above what's needed for the 5 FTE transferred from Program Revenue			\$601,750	\$616,585	\$631,717	\$647,151	\$662,894

Assumptions:

* - Assumes 2% annual inflationary adjustment

** - Assumes 2% annual inflationary adjustment

Table 2
Hazardous Waste Revenue and Expenditures
Fiscal Year 2003 - 2007

Fiscal Year	Hazardous Waste Federal Grant Revenue	Hazardous Waste Program Revenue	Total Revenue		Hazardous Waste Expenditures
2003	1,776,860	\$183,153	\$1,960,013		\$2,695,324
2004	1,764,452	\$240,974	\$2,005,426		\$2,643,466
2005	1,741,934	\$198,844	\$1,940,778		\$2,760,516
2006	1,767,846	\$258,726	\$2,026,572		\$2,536,952
2007	1,844,585	\$239,126	\$2,083,711		\$2,759,214

Tradewell, Becky

From: Tradewell, Becky
Sent: Saturday, January 17, 2009 1:25 PM
To: Miner, Andrew - DOA
Subject: RE: new request: hazardous waste fees
Attachments: 07-03521.pdf

Andrew,

I have some questions and comments about this request.

Should there be a delayed effective date for the elimination of the base fee portion of s. 289.67 (2) (b) 1. (given that it will take some time for DNR to promulgate rules for a new generator fee)?

S. 20.370 (2) (mq) is not a program revenue appropriation, so it is not possible to put fee revenue into it. The fee revenue under s. 291.05 (7) (a) is credited to the appropriation under s. 20.370 (2) (dg) and (9) (mj). The fee revenue under s. 289.67 (2) is deposited in the environmental fund.

Your email refers to the second and third bullet points of the DNR issue paper. I'm not sure that those are the bullet points that you meant. Do you want the statutory language changes to s. 291.05 (7) (a) proposed in the second bullet point? I did a draft like that for last session's budget. See 07-0352/1, attached. The changes in that draft authorize DNR to set fees by rule and would seem to eliminate the need for any specific language about fees for large quantity and small quantity generators. That draft also credits any fee revenue to s. 20.370 (2) (dg) and (9) (mj). That draft would not seem to prevent DNR from imposing fees on very small quantity generators. Is that desired?

The statutes do not define large quantity, small quantity, or very small quantity generator. I do not see a definition of large quantity generator in the rules. The definition of small quantity generator in the rules is straightforward (see s. NR 660.10 (107)), but the definition of very small quantity generator (see s. NR 660.10 (139)) is technical and includes references to other rules. It would be difficult to put a definition like that in the statutes. Note that the definition of small quantity generator includes very small quantity generators (that is, very small quantity generators are a subset of small quantity generators).

Let me know if you have questions about this or want to discuss it. I'm not sure how much longer I will be here today, but if I leave soon I will be here tomorrow and, in any event, I will be here on Monday after having some dental work done in the morning.

Becky
 6-7290

From: Miner, Andrew - DOA [mailto:Andrew.Miner@Wisconsin.gov]
Sent: Friday, January 16, 2009 5:38 PM
To: Tradewell, Becky
Cc: Steinmetz, Jana D - DOA
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Andrew Miner
Agriculture, Environment and Justice
Wisconsin State Budget Office
(608) 266-1103

Tradewell, Becky

From: Miner, Andrew - DOA [Andrew.Miner@Wisconsin.gov]

Sent: Tuesday, January 20, 2009 1:52 PM

To: Tradewell, Becky

Subject: RE: new request: hazardous waste fees

Becky,

After talking with DNR, I believe the easiest way to achieve what was approved is to just raise the base fee under 289.67(2)(b)1 from \$210 to \$950, effective on passage. Then I will transfer authority for the positions from 2(dg) to 2(mq) through the budget system. Please let me know if you have any questions. Thanks,
Andrew

From: Tradewell, Becky [mailto:Becky.Tradewell@legis.wisconsin.gov]

Sent: Saturday, January 17, 2009 1:25 PM

To: Miner, Andrew - DOA

Subject: RE: new request: hazardous waste fees

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Let me know if you have questions about this or want to discuss it. I'm not sure how much longer I will be here today, but if I leave soon I will be here tomorrow and, in any event, I will be here on Monday after having some dental work done in the morning.

Becky
6-7290

From: Miner, Andrew - DOA [mailto:Andrew.Miner@Wisconsin.gov]
Sent: Friday, January 16, 2009 5:38 PM
To: Tradewell, Becky
Cc: Steinmetz, Jana D - DOA
Subject: new request: hazardous waste fees

Becky,

Barring any actions that I am not aware of, this should be the last new request you will see from us. I apologize for the tardiness, but the decision was just made and could've gone in very different directions. I'll be sending this over formally, but wanted to get it to you as quickly as possible.

The proposal is explained in the attached Excel spreadsheet.

1. It would discontinue the base fee portion under 289.67(2)(b)1. The per ton fee would remain in place.
2. It would create authority for an annual handler fee for large and small quantity generators of hazardous waste. Fees would not be set in statute: DNR would do so by rule. Fee revenue would be deposited into 20.370(2)(mq).

Do not worry about including the "inflationary adjustment" the sheet refers to. The required changes are discussed in the second and third bullet points of the attached issue paper. However, as opposed to DNR's request, we just want the fee to be on large and small quantity generators – not all three levels (large, small and very small).

Please let me know if you have questions. Thanks - Andrew

Andrew Miner
Agriculture, Environment and Justice
Wisconsin State Budget Office
(608) 266-1103

Tradewell, Becky

From: Miner, Andrew - DOA [Andrew.Miner@Wisconsin.gov]
Sent: Tuesday, January 20, 2009 2:20 PM
To: Tradewell, Becky
Subject: RE: new request: hazardous waste fees

Becky,

Thanks for catching this. Yes, please raise the maximum fee to \$18,000. Thanks - Andrew

From: Tradewell, Becky [mailto:Becky.Tradewell@legis.wisconsin.gov]
Sent: Tuesday, January 20, 2009 2:14 PM
To: Miner, Andrew - DOA
Subject: RE: new request: hazardous waste fees

Andrew,

Does the \$17,000 maximum fee need to be increased? (See s. 289.67 (2) (b) 2.)

Becky

From: Miner, Andrew - DOA [mailto:Andrew.Miner@Wisconsin.gov]
Sent: Tuesday, January 20, 2009 1:52 PM
To: Tradewell, Becky
Subject: RE: new request: hazardous waste fees

Becky,

After talking with DNR, I believe the easiest way to achieve what was approved is to just raise the base fee under 289.67(2)(b)1 from \$210 to \$950, effective on passage. Then I will transfer authority for the positions from 2(dg) to 2(mq) through the budget system. Please let me know if you have any questions. Thanks,
Andrew

From: Tradewell, Becky [mailto:Becky.Tradewell@legis.wisconsin.gov]
Sent: Saturday, January 17, 2009 1:25 PM
To: Miner, Andrew - DOA
Subject: RE: new request: hazardous waste fees

Andrew,

I have some questions and comments about this request.

Should there be a delayed effective date for the elimination of the base fee portion of s. 289.67 (2) (b) 1. (given that it will take some time for DNR to promulgate rules for a new generator fee)?

S. 20.370 (2) (mq) is not a program revenue appropriation, so it is not possible to put fee revenue into it. The fee revenue under s. 291.05 (7) (a) is credited to the appropriation under s. 20.370 (2) (dg) and (9) (mj). The fee revenue under s. 289.67 (2) is deposited in the environmental fund.

Your email refers to the second and third bullet points of the DNR issue paper. I'm not sure that those are the bullet points that you meant. Do you want the statutory language changes to s. 291.05 (7) (a) proposed in the second bullet point? I did a draft like that for last session's budget. See 07-0352/1, attached. The changes in that draft authorize DNR to set fees by rule and would seem to eliminate the need for any specific language about

01/20/2009

fees for large quantity and small quantity generators. That draft also credits any fee revenue to s. 20.370 (2) (dg) and (9) (mj). That draft would not seem to prevent DNR from imposing fees on very small quantity generators. Is that desired?

The statutes do not define large quantity, small quantity, or very small quantity generator. I do not see a definition of large quantity generator in the rules. The definition of small quantity generator in the rules is straightforward (see s. NR 660.10 (107)), but the definition of very small quantity generator (see s. NR 660.10 (139)) is technical and includes references to other rules. It would be difficult to put a definition like that in the statutes. Note that the definition of small quantity generator includes very small quantity generators (that is, very small quantity generators are a subset of small quantity generators).

Let me know if you have questions about this or want to discuss it. I'm not sure how much longer I will be here today, but if I leave soon I will be here tomorrow and, in any event, I will be here on Monday after having some dental work done in the morning.

Becky
6-7290

From: Miner, Andrew - DOA [mailto:Andrew.Miner@Wisconsin.gov]

Sent: Friday, January 16, 2009 5:38 PM

To: Tradewell, Becky

Cc: Steinmetz, Jana D - DOA

Subject: new request: hazardous waste fees

Becky,

Barring any actions that I am not aware of, this should be the last new request you will see from us. I apologize for the tardiness, but the decision was just made and could've gone in very different directions. I'll be sending this over formally, but wanted to get it to you as quickly as possible.

The proposal is explained in the attached Excel spreadsheet.

1. It would discontinue the base fee portion under 289.67(2)(b)1. The per ton fee would remain in place.
2. It would create authority for an annual handler fee for large and small quantity generators of hazardous waste. Fees would not be set in statute: DNR would do so by rule. Fee revenue would be deposited into 20.370(2)(mq).

Do not worry about including the "inflationary adjustment" the sheet refers to. The required changes are discussed in the second and third bullet points of the attached issue paper. However, as opposed to DNR's request, we just want the fee to be on large and small quantity generators – not all three levels (large, small and very small).

Please let me know if you have questions. Thanks - Andrew

*Andrew Miner
Agriculture, Environment and Justice
Wisconsin State Budget Office
(608) 266-1103*

Tradewell, Becky

From: Miner, Andrew - DOA [Andrew.Miner@Wisconsin.gov]
Sent: Monday, January 26, 2009 1:54 PM
To: Tradewell, Becky
Subject: FW: LRB Draft: 09-1611/2 Modify hazardous waste fees

Hi Becky – please see the note from DNR below. You can remove the mention of very small quantity generators, and please give DNR authority to make emergency rules for this without finding of an emergency. Let me know if you have questions. Thanks - Andrew

From: Potter, Lance - DNR
Sent: Monday, January 26, 2009 10:01 AM
To: Miner, Andrew - DOA
Cc: Storck, Colleen D - DNR; Chabot, Patricia M - DNR; Flaherty, Peter D - DNR; Polasek Jr, Joseph P - DNR
Subject: RE: LRB Draft: 09-1611/2 Modify hazardous waste fees

Hello Andrew -

Thanks for the quick work on the new language. I just talked to Waste and Pete Flaherty in Legal about the language and the note. We had two things:

1.) Yes, Becky is correct that the reporting is the reason the VSQG are exempt; they could be removed from being mentioned in the draft language.

2.) We discussed the time-frames of rule making. The way the language is now the new fees would not be in place until the permanent rules give the definitions needed, but this could take up to a year or more. Pete Flaherty submitted, for your approval, drafting non-emergency language to speed up the time. He pointed me to an previous example in 2005 Act 288; Section 80 (of course, the statutory references are to the sections in that Act):

SECTION 80. Nonstatutory provisions.

(1) The department of natural resources may use the procedure under section 227.24 of the statutes to promulgate rules under this act. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency rules promulgated under this subsection shall remain in effect until the date on which permanent rules take effect. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

<http://www.legis.state.wi.us/2005/data/acts/05Act288.pdf>

This would mean the new fees could be put in place in 150 days, and remain in place until the permanent rules are drafted into law.

Let me know if you have questions.

Thanks,

Lance

From: Miner, Andrew - DOA
Sent: Saturday, January 24, 2009 3:14 PM
To: Potter, Lance - DNR
Subject: FW: LRB Draft: 09-1611/2 Modify hazardous waste fees

01/26/2009

Lance – here is another version of the hazardous waste fees draft. It's more or less in line with what you suggested, but see Becky's drafter's note. If you need to call Becky directly on Monday to get this straightened out, that's fine. Let me know what you think. Thanks - Andrew

From: Henry, Patty [mailto:Patty.Henry@legis.wisconsin.gov]

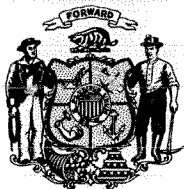
Sent: Saturday, January 24, 2009 3:11 PM

To: Miner, Andrew - DOA

Cc: Steinmetz, Jana D - DOA; Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA

Subject: LRB Draft: 09-1611/2 Modify hazardous waste fees

Following is the PDF version of draft 09-1611/2.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1611/1

RCT:.....

WLj

In 1/20

DOA:.....Miner, BB0479 - Modify hazardous waste fees

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

Do Not Gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

✓ ENVIRONMENT

✓ HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP

Under current law, generators of hazardous waste ~~are~~ generally ^{must} required to pay an annual environmental repair fee. The fee currently consists of a base fee of \$210 plus \$20 per ton of waste, but the total may not exceed \$17,000. This bill increases the base fee to \$950 and the maximum fee to \$18,000.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 289.67 (2) (b) 1. of the statutes is amended to read:

3 289.67 (2) (b) 1. A generator of hazardous waste shall pay a base fee of \$210

4 \$950 if the generator has generated more than zero pounds in that particular year,

5 plus \$20 per ton of hazardous waste generated during the reporting year.

1 **SECTION 2.** 289.67 (2) (b) 2. of the statutes is amended to read:

2 289.67 (2) (b) 2. No generator ~~may~~ is required to pay a fee that is greater than
3 ~~\$17,000~~ \$18,000.

4 History: 1995 a. 227 s. 601 to 604, 991; 1997 a. 27; 1999 a. 9; 2007 a. 20.

(END)

Tradewell, Becky

From: Miner, Andrew - DOA [Andrew.Miner@Wisconsin.gov]
Sent: Friday, January 23, 2009 1:43 PM
To: Tradewell, Becky
Subject: FW: HW Updates (changes to draft 1611)
Attachments: Proposed Generator Fee_012309.xls

Hi Becky,

This item was briefed again today and a few changes need to be made. See DNR's email below for additional information. The base fee needs to be changed from \$210 (current law) to \$350 for small quantity generators and \$470 for large quantity generators. As you previously mentioned, that probably means these types of generators will need to be defined in statute – DNR provides the definition below in 4). The fee limit should be \$17,500. Also, "tonnage" should be inserted in 289.67(2) (c) as DNR indicates in 3).

Please let me know if you have any questions or concerns. Thanks,
 Andrew

From: Potter, Lance - DNR
Sent: Friday, January 23, 2009 11:46 AM
To: Miner, Andrew - DOA
Cc: Storck, Colleen D - DNR; Polasek Jr, Joseph P - DNR
Subject: HW Updates

Hello Andrew -

Here is an update to the HW spreadsheet, see Newest_Fee tab for new fees: \$350 for Small Quantity and \$470 for Large Quantity Generators.

We have also had some internal discussions about the necessary statutory language.

✓ 1.) Change base fee amount of \$210 to \$350 for Small Quantity Generators (SQGs) and \$470 for Large Quantity Generators (LQGs).
 s.289.67 (2) (b) (1)

✓ 2.) Change current \$17,000 limit to \$17,500 in s.289.67 (2) (b) (2)

✓ 3.) Change s.289.67 (2) (c) to No tonnage fees maybe be assessed under par. (a)...

Note: The reason that the limitations were 70% of LQGs and 30% of SQGs currently paying the base fee is this fee exemption on materials reused or recycled. Waste views this as possibly controversial, as in, this is currently an incentive to reuse and recycle HW, but now we are suggesting charging them a new fee, instead of giving them a break if they reuse or recycle. Waste folks realize this was always part of the new fee plan - creating a fee for service.

4.) In order to create a two-tiered system out of the previous single amount (\$210) the SQGs and LQGs may need to be defined. The complication here is that SQGs, as pointed out by Becky T. in an earlier e-mail, are defined in the NR 660.10 (107). However, LQGs are not clearly defined in statutes or code; according to DNR Legal, it is sort of the default of everything else.

Here are definition from the HW fees web site: <http://dnr.wi.gov/org/aw/wm/hazard/reporting/definitions.htm>

LQG

A Large Quantity Generator, or LQG, is defined by the following criteria:

- (a) The site generated in one or more months during the calendar year, 1,000 kg. (2,205 lbs.)

01/23/2009

or more of hazardous waste, or more than 1 kg. (2.2 lbs.) of acute hazardous waste, or more than 100 kg. (220 lbs.) of acute hazardous waste spill cleanup material; or

- (b) the site accumulated at any time during the calendar year more than 1 kg. (2.2 lbs.) of acute hazardous waste, or 100 kg. (220 lbs.) of acute hazardous waste spill cleanup material; and
- (c) the site accumulated hazardous waste in above ground tanks or containers during the calendar year for 90 days or less.

SQG

A Small Quantity Generator (SQG) is defined by the following criteria:

- (a) in every single month during the calendar year, the site generated less than 1,000 kg. (2,205 lbs.) of hazardous waste, and 1 kg. (2.2 lbs.) or less of acute hazardous waste, and 100 kg. (220 lbs.) or less of acute hazardous waste spill cleanup material; and 662,192(3)
- (b) the site accumulated at any time during the calendar year 6,000 kg. (13,230 lbs.) or less of hazardous waste, and 1 kg. (2.2 lbs.) or less of acute hazardous waste, and 100 kg. (220 lbs.) or less of acute hazardous waste spill cleanup material; and 662,220(4)(b)
- (c) the site accumulated its waste in aboveground tanks or containers during the calendar year for 180 or 270 days (depends on the distance waste is transported) or less.

Let me know if you have questions.

Lance

↑
662,034(9)

Tradewell, Becky

From: Miner, Andrew - DOA [Andrew.Miner@Wisconsin.gov]
Sent: Saturday, January 24, 2009 9:59 AM
To: Tradewell, Becky
Subject: RE: HW Updates (changes to draft 1611)

Becky,

Very small quantity generators do not pay the fee now, and they shouldn't pay the fee under the draft. I think the concern from DNR was that using "other" might include very small generators. We want the fees to be \$350 for small, \$470 for large, and make sure that very small are excluded from paying the fee. DNR legal staff thought that specifically exempting very small was the best way to ensure this. If you can do it in another, easier way, that's certainly ok with me. Please let me know if you have further questions. Thanks,
 Andrew

From: Tradewell, Becky [mailto:Becky.Tradewell@legis.wisconsin.gov]
Sent: Friday, January 23, 2009 5:17 PM
To: Miner, Andrew - DOA
Subject: RE: HW Updates (changes to draft 1611)

Andrew,

It wasn't clear to me that very small generators needed to be excluded (the definition of small quantity generator that DNR provided includes very small generators -- they are a subset of small quantity). Do very small generators pay the fees now? If not, I don't see why they need to be mentioned in this draft.

Becky

From: Miner, Andrew - DOA [mailto:Andrew.Miner@Wisconsin.gov]
Sent: Friday, January 23, 2009 5:11 PM
To: Tradewell, Becky
Cc: Steinmetz, Jana D - DOA
Subject: RE: HW Updates (changes to draft 1611)

Becky,

Here is what DNR proposed in response to your question. Set the fees at \$470 for large generators, \$350 for small generators, and exempt for very small generators. Then state that DNR shall promulgate rules to define these types of generators for the purpose of this section only.

There was concern that "other generators" could refer to either large or very small. Please make this change or let me know if you have any questions/concerns. Thanks,
 Andrew

From: Tradewell, Becky [mailto:Becky.Tradewell@legis.wisconsin.gov]
Sent: Friday, January 23, 2009 2:56 PM
To: Miner, Andrew - DOA
Subject: RE: HW Updates (changes to draft 1611)

Andrew,

This is the definition of "small quantity generator" in NR 660.10 (107):

"Small quantity generator" means a generator who generates less than 1,000 kg (2,205 pounds) of hazardous

01/24/2009

waste in a calendar month.

The definition in Lance's email is much more complex and it uses terms that are not defined in the statutes [like "acute hazardous waste spill cleanup material"]. It also includes some indefinite language about how long waste was accumulated in aboveground tanks or containers [180 or 270 days (depends on the distance waste is transported)].

I could easily place into the statutes the definition that is in the rules. Then I thought it would be possible to provide that the fee is \$350 for small quantity generators and \$470 for other generators. Would that be acceptable?

Otherwise, I am not sure how I am going to use the definition in the email as the basis for a statutory definition.

Becky

From: Miner, Andrew - DOA [mailto:Andrew.Miner@Wisconsin.gov]
Sent: Friday, January 23, 2009 1:43 PM
To: Tradewell, Becky
Subject: FW: HW Updates (changes to draft 1611)

Hi Becky,

This item was briefed again today and a few changes need to be made. See DNR's email below for additional information. The base fee needs to be changed from \$210 (current law) to \$350 for small quantity generators and \$470 for large quantity generators. As you previously mentioned, that probably means these types of generators will need to be defined in statute – DNR provides the definition below in 4). The fee limit should be \$17,500.

Also, "tonnage" should be inserted in 289.67(2) (c) as DNR indicates in 3).

Please let me know if you have any questions or concerns. Thanks,
 Andrew

From: Potter, Lance - DNR
Sent: Friday, January 23, 2009 11:46 AM
To: Miner, Andrew - DOA
Cc: Storck, Colleen D - DNR; Polasek Jr, Joseph P - DNR
Subject: HW Updates

Hello Andrew -

Here is an update to the HW spreadsheet, see Newest_Fee tab for new fees: \$350 for Small Quantity and \$470 for Large Quantity Generators.

We have also had some internal discussions about the necessary statutory language.

1.) Change base fee amount of \$210 to \$350 for Small Quantity Generators (SQGs) and \$470 for Large Quantity Generators (LQGs).
 s.289.67 (2) (b) (1)

2.) Change current \$17,000 limit to \$17,500 in s.289.67 (2) (b) (2)

3.) Change s.289.67 (2) (c) to No tonnage fees maybe be assessed under par. (a)...

Note: The reason that the limitations were 70% of LQGs and 30% of SQGs currently paying the base fee is this fee exemption on materials reused or recycled. Waste views this as possibly controversial, as in, this is currently

01/24/2009

an incentive to reuse and recycle HW, but now we are suggesting charging them a new fee, instead of giving them a break if they reuse or recycle. Waste folks realize this was always part of the new fee plan - creating a fee for service.

4.) In order to create a two-tiered system out of the previous single amount (\$210) the SQGs and LQGs may need to be defined. The complication here is that SQGs, as pointed out by Becky T. in an earlier e-mail, are defined in the NR 660.10 (107). However, LQGs are not clearly defined in statutes or code; according to DNR Legal, it is sort of the default of everything else.

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- (b) the site accumulated at any time during the calendar year more than 1 kg. (2.2 lbs.) of acute hazardous waste, or 100 kg. (220 lbs.) of acute hazardous waste spill cleanup material; and
- (c) the site accumulated hazardous waste in above ground tanks or containers during the calendar year for 90 days or less.

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- (b) the site accumulated at any time during the calendar year 6,000 kg. (13,230 lbs.) or less of hazardous waste, and 1 kg. (2.2 lbs.) or less of acute hazardous waste, and 100 kg. (220 lbs.) or less of acute hazardous waste spill cleanup material; and
- (c) the site accumulated its waste in aboveground tanks or containers during the calendar year for 180 or 270 days (depends on the distance waste is transported) or less.

Let me know if you have questions.

Lance



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1611/12

RCT:wlj:md

In 1/24

bjk

1/11/11

DOA:.....Miner, BB0479 - Modify hazardous waste fees

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

SA ✓
x-ref ✓
Inserts

Note

- 1 AN ACT ^{do not gen.} ...; relating to: the budget. ^{\$350 For generators of small quantities of hazardous waste and \$470 For generators of large quantities of hazardous waste}

Analysis by the Legislative Reference Bureau

ENVIRONMENT

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP

Under current law, generators of hazardous waste generally must pay an annual environmental repair fee. The fee currently consists of a base fee of \$210 plus \$20 per ton of waste, but the total may not exceed \$17,000. This bill increases the base fee to ~~\$950~~ ^{\$17,500 Analysis insert} and the maximum fee to ~~\$18,000~~.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Insert
1-1

- 2 SECTION 1. 289.67 (2) (b) 1. of the statutes is amended to read:
- 3 289.67 (2) (b) 1. A generator of hazardous waste shall pay a base fee of \$210
- 4 ~~\$950~~ ^{Insert 1-4} if the generator has generated more than zero pounds in that particular year,
- 5 plus \$20 per ton of hazardous waste generated during the reporting year. ^{Insert 5-}

1 ✓
2 **SECTION 2.** 289.67 (2) (b) 2. of the statutes is amended to read:
3 289.67 (2) (b) 2. No generator may is required to pay a fee that is greater than
4 \$17,000 ~~\$18,000.~~ \$17,500

(END)

Insert 2-3

Note

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1611/2ins
RCT:.....

1 **Analysis insert**

no ff Current law specifies that the environmental repair fee may not be assessed for certain wastes, including wastes that are recovered for recycling or reuse. This bill provides that it is the per ton fee that may not be assessed for those wastes.

2 **Insert 1-1**

3 **SECTION 1.** 289.67 (2) (a) of the statutes is amended to read:

4 289.67 (2) (a) A generator of hazardous waste, other than a very small quantity
5 generator, who is required to report annually on hazardous waste activities
6 according to rules promulgated under s. 291.05 (6) (b) shall pay an annual
7 environmental repair fee.

History: 1995 a. 227 s. 601 to 604, 991; 1997 a. 27; 1999 a. 9; 2007 a. 20.

8 **Insert 1-4**

9 no ff \$470, if the generator is a large quantity generator, or \$350, if the generator is
10 a small quantity generator

11 **Insert 2-3**

12 **SECTION 2.** 289.67 (2) (c) (intro.) of the statutes is amended to read:

13 289.67 (2) (c) (intro.) No tonnage fees may be assessed under par. (a) for the
14 following hazardous wastes:

History: 1995 a. 227 s. 601 to 604, 991; 1997 a. 27; 1999 a. 9; 2007 a. 20.

15 **SECTION 3.** 289.67 (2) (de) of the statutes is created to read:

16 289.67 (2) (de) The department shall promulgate a rule that defines "large
17 quantity generator," "small quantity generator," and "very small quantity generator"
18 for the purposes of this subsection.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1611/2dn

RCT.....

Lbjk

Date

Andrew Miner:

I assumed that very small generators of hazardous waste are currently exempt from the fee because they are not required to report under rules promulgated under s. 291.05 (6) (b) (see s. 289.67 (2) (a)). If that is correct, there is no need to amend s. 289.67 (2) (a) or to refer to very small quantity generators at all in this draft and it would be best to eliminate the treatment of s. 289.67 (2) (a). If that is not why very small quantity generators are currently exempt from the fee, I do not know what authority DNR has to exempt them.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1611/2dn
RCT:bjk:ph

January 24, 2009

Andrew Miner:

I assumed that very small generators of hazardous waste are currently exempt from the fee because they are not required to report under rules promulgated under s. 291.05 (6) (b) (see s. 289.67 (2) (a)). If that is correct, there is no need to amend s. 289.67 (2) (a) or to refer to very small quantity generators at all in this draft and it would be best to eliminate the treatment of s. 289.67 (2) (a). If that is not why very small quantity generators are currently exempt from the fee, I do not know what authority DNR has to exempt them.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1611/3

RCT:wlj:ph

In 1/26

stays ↑ rmr

DOA:.....Miner, BB0479 - Modify hazardous waste fees

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

Note

1 ^{Do Not Gen}
AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP

Under current law, generators of hazardous waste generally must pay an annual environmental repair fee. The fee currently consists of a base fee of \$210 plus \$20 per ton of waste, but the total may not exceed \$17,000. This bill increases the base fee to \$350 for generators of small quantities of hazardous waste and \$470 for generators of large quantities of hazardous waste and the maximum fee to \$17,500. Current law specifies that the environmental repair fee may not be assessed for certain wastes, including wastes that are recovered for recycling or reuse. This bill provides that it is the per ton fee that may not be assessed for those wastes.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 **SECTION 1.** 289.67 (2) (a) of the statutes is amended to read:
3 289.67 (2) (a) A generator of hazardous waste, other than a very small quantity
4 generator, who is required to report annually on hazardous waste activities

1 according to rules promulgated under s. 291.05 (6) (b) shall pay an annual
2 environmental repair fee.

3 **SECTION 2.** 289.67 (2) (b) 1. of the statutes is amended to read:

4 289.67 (2) (b) 1. A generator of hazardous waste shall pay a base fee of \$210
5 \$470, if the generator is a large quantity generator, or \$350, if the generator is a small
6 quantity generator if the generator has generated more than zero pounds in that
7 particular year, plus \$20 per ton of hazardous waste generated during the reporting
8 year.

9 **SECTION 3.** 289.67 (2) (b) 2. of the statutes is amended to read:

10 289.67 (2) (b) 2. No generator ~~may~~ is required to pay a fee that is greater than
11 ~~\$17,000~~ \$17,500.

12 **SECTION 4.** 289.67 (2) (c) (intro.) of the statutes is amended to read:

13 289.67 (2) (c) (intro.) No tonnage fees may be assessed under par. (a) for the
14 following hazardous wastes:

15 **SECTION 5.** 289.67 (2) (de) of the statutes is created to read:

16 289.67 (2) (de) The department shall promulgate a rule that defines "large
17 quantity generator," ^{and} "small quantity generator," and "very small quantity generator"
18 for the purposes of this subsection.

19 (END)

Insert 2-18

note

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1611/3ins
RCT:.....

Insert 2-18

SECTION 9137. Nonstatutory provisions; Natural Resources.

(1) HAZARDOUS WASTE FEE EMERGENCY RULES. The department of natural resources may promulgate the rule required under section 289.67 (2) (de) of the statutes, as created by this act, using the procedure under section 227.24 of the statutes before promulgating a permanent rule. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, an emergency rule promulgated under this subsection remains in effect until July 1, 2011, or the date on which the permanent rule takes effect, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1611/3dn

RCT:.....

Wlj

Date

Andrew Miner:

Nonstatutory provisions must be of limited duration, so it is not permissible to provide that the emergency rules remain in effect indefinitely, as DNR proposed. This draft allows the emergency rules to remain in effect for two years.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1611/3dn
RCT:wlj:ph

January 27, 2009

Andrew Miner:

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Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1611/3
RCT:wlj:ph

DOA:.....Miner, BB0479 - Modify hazardous waste fees

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau
ENVIRONMENT

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- 3 289.67 (2) (b) 1. A generator of hazardous waste shall pay a base fee of \$210
- 4 \$470, if the generator is a large quantity generator, or \$350, if the generator is a small

1 quantity generator if the generator has generated more than zero pounds in that
2 particular year, plus \$20 per ton of hazardous waste generated during the reporting
3 year.

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5 289.67 (2) (b) 2. No generator may is required to pay a fee that is greater than
6 \$17,000 \$17,500.

7 **SECTION 3.** 289.67 (2) (c) (intro.) of the statutes is amended to read:

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10 **SECTION 4.** 289.67 (2) (de) of the statutes is created to read:

11 289.67 (2) (de) The department shall promulgate a rule that defines "large
12 quantity generator" and "small quantity generator" for the purposes of this
13 subsection.

14 **SECTION 9137. Nonstatutory provisions; Natural Resources.**

15 (1) HAZARDOUS WASTE FEE EMERGENCY RULES. The department of natural
16 resources may promulgate the rule required under section 289.67 (2) (de) of the
17 statutes, as created by this act, using the procedure under section 227.24 of the
18 statutes before promulgating a permanent rule. Notwithstanding section 227.24 (1)
19 (c) and (2) of the statutes, an emergency rule promulgated under this subsection
20 remains in effect until July 1, 2011, or the date on which the permanent rule takes
21 effect, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the
22 statutes, the department is not required to provide evidence that promulgating a rule
23 under this subsection as an emergency rule is necessary for the preservation of public

1 peace, health, safety, or welfare and is not required to provide a finding of emergency
2 for a rule promulgated under this subsection.

3 (END)